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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/726,707	12/04/2003	Yoshinori Watanabe	U2054.0145	7043

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EXAMINER	
ELCENKO, ERIC J	

ART UNIT	PAPER NUMBER
2617	

MAIL DATE	DELIVERY MODE
05/20/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/726,707	WATANABE, YOSHINORI	
	Examiner	Art Unit	
	ERIC ELCENKO	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *04 December 2003*.

2a)☐ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-27* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,14 and 27* is/are rejected.

7)☒ Claim(s) *2-13 and 15-26* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 27 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 27 includes claimed subject matter which is attempting to gain patent protection of a program. Data structures not claimed as embodied in computer-readable media are descriptive material per se and are not statutory. Such claimed data structures do not define any structural and functional interrelationships between the data structure and other claimed aspects of the invention which permit the data structure's functionality to be realized. The examiner suggests using wording such as "a computer readable medium encoded with a computer program for.." to be used in place of the current wording of Claim 27.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1, 14 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rappaport et al. (U.S. Pat. No. 7,085,697) in view of Meyer (U.S. Pat. No. 6,470,195)

In regard to claims 1, 14 and 27, Rappaport teaches a reception determination method of a ray, in which a path of a ray provided within an observation region is predicted, (*Rappaport teaches designing/deploying a communications network inside of an office building or similar type of structure in which the optimal base station location is to be found. The observation region is such as seen in Fig 4 of the area surrounding transmitter 107, Col 7, Ln 62-67; Fig 4)* and reception determination processing is applied to reception points of said ray which are arranged in advance within said observation region, (*the reception points are read in Rappaport as the watch points which are placed by the designers all around the observation region where they believe it is best served to gather the best information for design of the communication system, The watch points send back data such as a received signal strength, RSSI, SIR ratio, SNR ratio, FER and BER or other performance metrics, the processing being applied to the determined watch points of interest by the designers. Col 8, Ln 29-33, Ln 43-46; Col 8 Ln 63-Col 9 Ln 13)*

Rappaport does not teach the reception points are arranged into groups within the observation region for singular or plural reception point grouping.

Meyer teaches a network containing cells. Each cell is broken into different sectors. The standard shown is three sectors of the same size. However, it is recognized that a cell could be divided into a larger or smaller number of sectors. (*The*

varying sectors in the cell are being read upon as the grouping of the observation area where watch points could be placed for singular or plural reception points. The different sectors could be as small as the specific rooms discussed in Rappaport where multiple watch points are placed to have optimal settings. Fig 1, Abs, Col 4, Ln 10-39)

It would have been obvious to one of ordinary skill in the art to modify Rappaport to include the teachings of Meyer. The breakdown into groupings/sectors as taught by Meyer would allow for greater efficiency when designing a network and allow for increased comparisons of measurements having multiple readings in some areas than a single measurement. Replacement of the observation region (cell around the transmitter 107 in Rappaport) with the sectored cell of Meyer would yield predictable results of higher and more accurate readings of performance metrics.

Allowable Subject Matter

3. Claims 2-13 and 15-26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ERIC ELCENKO whose telephone number is (571)272-8066. The examiner can normally be reached on M-F 7:30 AM through 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duc Nguyen can be reached on (571) 272-7503. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ee

/Duc Nguyen/

Supervisory Patent Examiner, Art Unit 2617